INDEPENDENT INFORMAL DISPUTE RESOLUTION FOR FEDERALLY CERTIFIED NURSING HOMES

Department of Health Services / Division of Quality Assurance
P-01855 (02/2023)

Overview

On March 23, 2010, regulations were added at 42 CFR 488.331 and 488.431, effective January 1, 2012, resulting in the development of an Independent Informal Dispute Resolution (Independent IDR) process for federally certified nursing homes. The Independent IDR process is in addition to the current Informal Dispute Resolution (IDR) process. The traditional and current IDR process is virtually unaffected by the implementation of the additional Independent IDR. This procedure takes effect August 1, 2021.

This publication describes the procedure under which federally certified nursing homes may dispute certain deficiencies using the Independent IDR process. Independent IDR will only apply to standard and/or complaint surveys that initiate an enforcement action for which a civil money penalty (CMP) is imposed and subject to being placed in escrow. Effective October 1, 2013, every CMP imposed for a deficiency in a nursing home, regardless of scope/severity, will be subject to escrow and the nursing home may request an independent informal dispute resolution.

The Centers for Medicare & Medicaid Services (CMS) will notify nursing homes in the *Notice of Imposition of CMP* letter of their opportunity for Independent IDR. In Wisconsin, Independent IDR is conducted by iMPROve Health at no cost to the nursing home.

The Independent IDR process is separate from the Informal Dispute Resolution (IDR) process that occurs immediately after the Statement of Deficiency (SOD) is issued. If the IDR process is completed before the facility receives the *Notice of Imposition of CMP* letter from CMS, the facility will have an opportunity to request Independent IDR for the same deficiency citations. If the facility receives the *Notice of Imposition of CMP* letter prior to the completion of IDR, the facility will be asked to choose either the IDR process or the Independent IDR process. The IDR process is complete when the facility is notified in writing of the results of IDR by the Division of Quality Assurance (DQA).

The Independent IDR process is very similar to the IDR process. A comparison of some of the differences between IDR and Independent IDR is located at the end of this publication.

Timeframes and Procedures for Requesting Independent IDR

The CMS Notice of Imposition of CMP letter will inform the facility that they may send a written request for Independent IDR to iMPROve Health. The letter will include information on when the request must be received by iMPROve Health.

The written request will be expected to include:

- The type of Independent IDR requested, either telephone review or desk review
- Each federal tag being disputed
- The name of the facility contact person and the person's telephone number, including area code
- A copy of the SOD without the Plan of Correction
- A copy of the SOD Identifier Key F-62552
- Supporting documentation for Independent IDR review. The supporting documentation should include:
  - The reason each federal tag is being disputed
  - The desired outcomes for each disputed federal tag (Examples: withdraw the citation, withdraw specific examples, change the scope/severity of the tag)
  - The relevance of the documentation to the dispute (Material that does not identify specific entries to be reviewed for each disputed citation, or that does not explain the relevance of the documentation to the dispute will not be considered.)

Facilities may send their supporting documentation electronically to iMPROve Health through their secure IDR portal www.improve.health/idr. Submission of the IDR review packet is only accepted by electronic submission through iMPROve Health's Secure IDR Portal.

In addition, a copy of the written request must be faxed within 10 calendar days of receipt of the *CMS Notice of Imposition of CMP* letter to:

DHS / DQA Central Office
ATTN: Independent IDR Intake
FAX: 608-267-7119

Do not fax a copy of the SOD or the supporting documentation to DQA.

Questions regarding the Independent IDR process conducted by iMPROve Health should be directed to:

iMPROve Health
Phone: 248-465-1038
Email:IIDRgroup@improve.health

Independent IDR Session

Upon timely receipt by iMPROve Health of a request for Independent IDR, iMPROve Health will schedule the telephone review or complete the desk review. The purpose of the call is to allow the facility to provide a brief overview of the material it has submitted and to answer any questions iMPROve Health may have about the material. The provider may explain how and why it disagrees with the Statement of Deficiency. The call is generally limited to one hour.

DQA Regional Field Operation Directors (or their designees) and/or attorneys representing the facility may participate in the Independent IDR. In some cases, the Ombudsman, a representative from CMS or DQA, or an iMPROve Health project manager may attend an Independent IDR review. The iMPROve Health reviewer will inform the facility upon convening the call if additional persons are present.

Involved Resident/Resident Representative/Ombudsman Comments

In accordance with 42 CFR 488.431(a)(3), DQA will notify any involved resident or the resident's representative and the Ombudsman of the facility's request for Independent IDR and their opportunity to submit written comments to iMPROve Health for review. CMS defines an involved resident as a resident who was the subject of a complaint or who filed a complaint that led to a deficiency that is the subject of Independent IDR. The resident representative is defined as either the resident's legal representative or the individual filing a complaint involving or on behalf of a resident. The involved resident or the resident's representative will receive that portion of the Statement of Deficiency that addresses the care the resident received at the facility.

Post-Independent IDR Session

iMPROve Health will submit their Independent IDR recommendations to DQA no later than 30 calendar days following receipt of the request for Independent IDR from the facility. As directed by CMS, DQA will review the recommendations from iMPROve Health. If DQA agrees with the recommendations, DQA will send written notification of the final decision to the facility within five calendar days of receipt of the Independent IDR recommendation from iMPROve Health. If DQA disagrees with one or more of the recommendations, final determination will be made by the CMS Regional Office. DQA will send written notification of the final decision to the facility within five calendar days of receiving the final decision from CMS, but no later than 60 calendar days following receipt of the facility's request for Independent IDR.

When changes are made to the SOD, the facility will be sent a "clean copy" of the original SOD. The facility is responsible for ensuring its Plan of Correction is transferred to the "clean" SOD and returned to the appropriate DQA Regional Office.

Questions regarding this information should be directed to the Regional Field Operations Director for the region in which your facility is located. Regional contact information is located at:
https://www.dhs.wisconsin.gov/dqa/bnhrc-regionalmap.htm

Comparison of IDR and Independent IDR

Topic	Informal Dispute Resolution	Independent Informal Dispute Resolution
Facility Eligibility	Available to all nursing homes and FDDs	Available only to federally-certified nursing homes
Notification of Eligibility	DQA notifies eligible facilities when the SOD is issued.	CMS notifies eligible facilities in the *Notice of Imposition of CMP* letter.
Eligible Citations	Applies to any citations issued by DQA	Applies to citations issued as a result of a standard and/or complaint survey that initiates an enforcement action for which a CMP is imposed and subject to being placed in escrow
Timing of Request	Facility submits request to iMPROve Health within 10 calendar days of receipt of the SOD.	Facility submits request to iMPROve Health within the time specified in the CMS *Notice of Imposition of CMP* letter.
Information Reviewed	The regulatory standard, federal State Operations Manual, applicable standards of practice, the statement of deficiency, and information provided by the facility	The regulatory standard, federal State Operations Manual, applicable standards of practice, statement of deficiency, and information provided by the facility, involved resident or the resident's representative, and long term care ombudsman
Documentation	Facility submits one copy of the supporting documentation to iMPROve Health.	Facility submits one copy of the supporting documentation to iMPROve Health.
Notification of Decision	DQA notifies the facility of the IDR decision within 24 calendar days from the date the facility received the Statement of Deficiency.	In accordance with 42 CFR 488.431(a)(1), DQA notifies the facility of the Independent IDR decision within 60 calendar days of the facility's request for Independent IDR.